

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

NATHANIEL LEE THOMPSON §
v. § CIVIL ACTION NO. 6:06cv388
JOHN EATON, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Nathaniel Thompson, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On October 19, 2006, the Magistrate Judge ordered Thompson to pay an initial partial filing fee of \$1.00, pursuant to 28 U.S.C. §1915(b), or to show good cause why he should not do so. When no fee or showing of good cause was forthcoming, the Magistrate Judge issued a Report on December 8, 2006, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. The Magistrate Judge also recommended that the statute of limitations on Thompson's claims be suspended for 60 days following entry of final judgment in the case.

On December 14, 2006, Thompson filed a motion for extension of time in which to comply. He says that he wrote to his sister and did not receive any money until he was at the Estelle Unit. He says that he did not have the money then but now he does.

The Magistrate Judge granted Thompson's motion for extension of time and gave him until January 14, 2007, in which to pay the initial partial filing fee or to show good cause for his

failure to do so. The Magistrate Judge explained that a showing of good cause could be made by furnishing a current TDCJ-CID inmate trust account data sheet showing the lack of ability to pay the fee. Thompson received a copy of this order on January 4, 2007, but has not complied with the order, nor has he responded in any way. He has failed to prosecute his case and his lawsuit should be dismissed.

The Court has conducted a careful *de novo* review of the pleadings and documents in this case, including the Plaintiff's complaint, the Report of the Magistrate Judge, the Plaintiff's subsequent pleadings, and all other documents and records in the case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. It is further

ORDERED that the statute of limitations on the Plaintiff's claims in this lawsuit be and hereby is SUSPENDED from the date of filing of this lawsuit until sixty (60) days following the date of entry of final judgment in this case. See Mills v. Criminal District Court No. 3, 837 F.2d 677 (5th Cir. 1988); Rodriguez v. Holmes, 963 F.2d 799 (5th Cir. 1992). Finally, it is hereby

ORDERED that any and all motions which may be pending in this action are hereby DENIED.

So ORDERED and SIGNED this 12th day of February, 2007.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**